Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. (S) No. 5963 /2006

PETITIONER : Kushal Prasad Patel
S/o. Shri Dadu Ram Patel
Aged about 39 years
Post-Assistant - Teacher
R/o. Village –kirari, Post Kirari ,Tahsil Dabhra
District Janjgir- Champa (C.G.)

RECEIVED-COPY
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31/X/06

VERSUS

RESPONDENTS :1. State of Chhattisgarh
Through : Secretary
Department of Education
Mantralaya, D.K.S. Bhawan,
Raipur (C.G.)

P.R. No. 6005/06
Presented by Shri A.K. Shukla Adv.
dated 31-10-06
2:55 P.M.

2. District Education Officer,
Raigarh, District Raigarh
(C.G.)

3. Block Education Officer
Block-Baramkela
District-Raigarh
(C.G.)

OATH COMMISSIONER
APARNA MALVIYA
Bilaspur Chhattisgarh
23/10/06

WRIT PETITION U/A 226/277 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRITS IN THE NATURE OF MANDAMUS AND

CERTIORARI AND FOR OTHER SUITABLE WRITS AND DIRECTIONS

XI-HC-78

25

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(S) 5963/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	03.11.2006 **Shri Anil Mourya, Advocate for the Petitioners.** **Shri Utkarsh Verma, Deputy Government Advocate for the State/respondents.** **With the consent of learned counsel for the parties, the writ petition is heard finally.** **Common order dictated in Writ Petition (S.) 5945/2006 in open Court, passed separately.** **Sd/-** **Satish K. Agnihotri** **Judge**	

Subhash

P.T.O.

9.11.06

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 5945 of 2006

Petitioner : Puran Lal Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5946 of 2006

Petitioner : Gajendra Prasad Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5947 of 2006

Petitioner : Bhanu Pratap Singh Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5948 of 2006

Petitioner : Bhuvneshwar Prasad Sahu
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5949 of 2006

Petitioner : Chand Ram Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5950 of 2006

Petitioner : Keshav Prasad Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5951 of 2006

Petitioner : Khirsagar Nayak
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5952 of 2006

Petitioner : Raj Kumar Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5953 of 2006

Petitioner : Amrit lal Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5954 of 2006

Petitioner : Mohan Murari Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5955 of 2006

Petitioner : Fanish Ram Sidar
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5956 of 2006

Petitioner : Ram krishana Sahu
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5957 of 2006

Petitioner : Pramod Kumar Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5958 of 2006

Petitioner : Ram Bihari Sahu
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5959 of 2006

Petitioner : Farmesh Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5960 of 2006

Petitioner : Smt. Tara Rao
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5961 of 2006

Petitioner : Dhaniram Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5962 of 2006

Petitioner : Ganesh Ram Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5963 of 2006

Petitioner : Kushal Prasad Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5964 of 2006

Petitioner : Ram Narayan Patel
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5965 of 2006

Petitioner : Upendra Kumar Patel
Versus
Respondents : State of Chhattisgarh & others

And

W. P. (s) No. 5966 of 2006

Petitioner : Achchhe Lal Patel
Versus
Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Present: Shri Anil Mourya, Advocate for the Petitioners.
Shri Utkarsh Verma, Deputy Government Advocate for the State/respondents.

ORDER

(3rd November, 2006)

1. The petitioners are working as Assistant Teachers/Upper Division Teachers in the government schools. In the course of their services as Assistant Teachers/Upper Division Teachers, the petitioners have obtained B.Ed. examination certificates on their own expenses before 1.3.1999.

2. Writ Petition (S) No.s 5945/2006, 5946/2006, 5947/2006, 5948/2006, 5949/2006, 5950/2006, 5951/2006, 5952/2006, 5953/2006, 5954/2006, 5955/2006, 5956/2006, 5957/2006, 5958/2006, 5959/2006, 5960/2006, 5961/2006, 5962/2006, 5963/2006, 5964/2006, 5965/2006 and 5966/2006 are being disposed of by this common order as the facts and question of law involved in these petitions are common.

29

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

4. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

6. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

7. Accordingly, the writ petitions are allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B. Ed./B.T.I. Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

8. A copy of this order be placed on record in connected matters.

Sd/-
Satish K. Agnihotri
Judge

Subhash